

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE FIFTEENTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE V.ESWARAIAH

WRIT PETITION NO : 5838 of 2003

Between:

Soma Gangaram, S/o.Gangaram,
R/o.Thimmapur village, Morthad Mandal,
Nizamabad Dist.,

..... PETITIONER

AND

- 1 The General Manager, The Nizamabad Dist. Co.op.,
Central Bank Ltd.,
Nizamabad, Nizamabad Dist.,
- 2 The Sr. Inspector/Sale Officer, The Nizamabad Dist. Co.op.,
Central Bank Ltd.,
Nizamabad, Nizamabad Dist.,
- 3 The Primary Agriculture Co-op.Society,
Morthad Mandal, Nizamabad Dist., rep. by its Secretary.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ, order or direction, more particularly one in the nature of writ of Mandamus i). declaring the Notice of the Respondent NO.2 dated 28.3.2003 in E.P.NO.584/2002-2003 of primary Agriculture Co-operative Society, Morthad, Nizamabad Dist., as arbitrary, illegal and violative of the articles 21 of the Constitution of India and consequently set aside the same.

Counsel for the Petitioner: MR.A.SUDERSHAN REDDY

Counsel for the Respondents: MRCH.JANARDHAN REDDY FOR R1 TO 3

The Court made the following:

HONOURABEL SRI JUSTICE V.ESWARAIAH

WRIT PETITION No. 5838 of 2003

-

ORDER:

The petitioner questions the Notification dated 28-03-2003, issued by the 2nd respondent-Senior Inspector, Nizamabad District Co-Operative Central Bank Limited, Nizamabad, for sale of the lands in the public auction while execution of decree in E.P.No.584 of 2002-03.

2. It is stated that the petitioner obtained a loan of Rs.5.18 lakhs for the purpose of poultry business in the year 1998 and apart from that he has also availed loan of Rs.5.95 lakhs in the year 1999. As the petitioner failed to repay the loan amount not even a single instalment, a Certificate was issued under Section 71(1) of the AP Cooperative Societies Act, 1964 (for brevity 'Act, 1964'), asking the petitioner to pay a sum of Rs.5,85,130/- along with interest. But, the petitioner did not pay the said amount and therefore, in pursuant to the issuance of Certificate, an execution petition in E.P.No.584/2003-03 was filed on 17-02-2003. Thereafter, the 2nd respondent issued notice dated 28-03-2003, for conducting auction of the properties for recovery of the loan amount. This Court by order dated 18-12-2003, granted stay of the impugned notice, dated 28-03-2003, subject to the conditions of the petitioner depositing a sum of Rs.3,00,000/- within four weeks' time. As a condition that in case of petitioner fails to pay the said amount, it is open for the respondent to proceed for auction. The said order was extended by one more week by order dated 25-02-2004. Again the said order was extended in W.P.M.P.No.5198 of 2005 up to 19-03-2005.

3. As seen from the entire material available on record, it is clear that the petitioner failed to comply with the orders of this Court, dated 18-12-2003, and since the petitioner has not questioned the Recovery Certificate which has become final,

I am of the considered opinion that the petitioner is not entitled to any relief as claimed in the writ petition.

4. Accordingly, the writ petition is dismissed. No costs.

April 15, 2005

KVR

To

1 The General Manager, The Nizamabad Dist. Co.op.,
Central Bank Ltd.,

Nizamabad, Nizamabad Dist.,

2 The Sr. Inspector/Sale Officer, The Nizamabad Dist. Co.op.,
Central Bank Ltd.,

Nizamabad, Nizamabad Dist.,

3 The Secretary, Primary Agriculture Co-op.Society,
Morthad Mandal, Nizamabad Dist.,

4 Two C.D. Copies.